

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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LIFE IS GOOD., INC.,

Plaintiff,

Civil Action

vs.

No. 04-cv-11290-REK

LG ELECTRONICS, U.S.A., INC.,

LG ELECTRONICS MOBILECOMM

U.S.A., INC., (formerly

LG INFOCOMM U.S.A., INC.),

Defendants.

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DEPOSITION OF ROBERT KLEIN, a witness called by
and on behalf of the Defendants, taken pursuant to
the provisions of the Federal Rules of Civil
Procedure, before Dana Welch, a Registered
Professional Reporter and Notary Public in and
for the Commonwealth of Massachusetts, at the
offices of Finnegan, Henderson, Farabow, Garrett
& Dunner, LLP, 55 Cambridge Parkway, Suite 700,
Cambridge, Massachusetts, on Friday, January 24,
2006, commencing at 10:31 a.m.

Exhibit 1 to Awdeh
Declaration

1 BY MR. RETTEW:

2 Q. And where was this down in New Jersey?

3 A. A Woodridge Mall, I think, near Newark.

4 MR. KIRBY: What exit?

5 THE DEPONENT: I don't know. Good
6 question. A mall in New Jersey near the Newark
7 airport.

8 MR. RETTEW: That would be around
9 Exit 12.

10 BY MR. RETTEW:

11 Q. And was this done in any formal setting?
12 Did you use any survey research company's
13 facilities?

14 MR. KIRBY: Object to the form.

15 THE DEPONENT: Yes.

16 BY MR. RETTEW:

17 Q. Who?

18 A. I don't know the name.

19 Q. Would Ms. Schussheim know?

20 A. I assume.

21 Q. Okay. Next page, page 156, question A.

22 A. Oh, okay.

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1 Q. Do you know the results of that question?

2 A. No.

3 Q. Who would know?

4 A. Either of the people who conducted the
5 interviews.

6 Q. Did they ever tell you what the results
7 were?

8 A. It's my recall that to the extent that this
9 question was asked, the -- there was, I'd say,
10 little awareness of Life is good. or association
11 with any products.

12 Q. What makes you say that?

13 A. I think I just answered that. I said to
14 the extent that I remember, that's what I remember.

15 Q. When I say what makes you say that, is that
16 because Ms. Schussheim told you or --

17 A. Yes, yes.

18 Q. Did she tell you anything else on that
19 topic, or was that it?

20 A. Not really, no, not that I recall.

21 Q. Did that affect the survey in any way?

22 A. I think it reinforced our prior -- that the

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1 question that's labeled, I think, C is a better way
2 to understand the confusion that exists in the
3 market.

4 Q. Do you know the results of question B?

5 A. B? No.

6 Q. Do you have any idea of the results of
7 question B?

8 A. It's my understanding that there was
9 relatively little association of specific products
10 and services with Life is good.

11 Q. When you say little, can you quantify that?

12 A. No.

13 Q. Or you don't know?

14 A. I don't know.

15 Q. And this is because Ms. Schussheim told
16 you?

17 A. Yes.

18 Q. And then question C, were the results of
19 that recorded anywhere?

20 A. Yes.

21 Q. And I'm going to show you what's been
22 marked Exhibit 84. Is that what you're referring

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1 to?

2 A. Yes.

3 Q. Okay. Why were the results of question C
4 recorded, but not the results of question A and B?

5 A. Because question C was the one that we were
6 particularly interested in.

7 Q. And whose handwriting is this on
8 Exhibit 83?

9 A. I can't say for sure. It looks like
10 Ms. Schussheim's, but I'm not certain.

11 Q. Did you change the questions that you used
12 in C on this exploratory in the final survey that
13 you used, or are these the same questions?

14 A. They're all basically different. But go
15 ahead.

16 Q. And how did they change?

17 A. Well, do you want me to read them to you?

18 Q. Well, no, you don't need to read them.
19 Well, let me ask this question, then, why did you
20 change them?

21 A. That giving people the, you know, five
22 options seemed to confuse them, and splitting it

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1 into two questions, which is the more traditional
2 format, was easier.

3 Q. And how do you know that the five options
4 seemed to confuse them?

5 A. That was the report I got back from the
6 people who did the interviews.

7 Q. And what did they say specifically on this
8 topic?

9 A. Said people had a lot of trouble with five
10 different options.

11 Q. Any other reasons that the questions were
12 changed?

13 A. No.

14 Q. In the exploratory, it says, "You will now
15 view two images. Please review them as if you might
16 -- if you saw them in advertising or on products."
17 Do you see that?

18 A. Yeah.

19 Q. And then in the final survey, it says, "I'm
20 going to show you two pages of the images or words
21 that you might see in advertisements or products."

22 A. Yes.

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1 Q. Why did that word change?

2 A. Which one? I mean, one --

3 Q. One says, "Review them as if you might see
4 them on products." The other one says, "I'm showing
5 you two things that might be on advertising or
6 products." Any reason for that change?

7 MR. KIRBY: Can you be more specific,
8 Doug?

9 THE DEPONENT: I'm having trouble
10 figuring out which change you're talking about.

11 BY MR. RETTEW:

12 Q. Sure.

13 A. Because there are a lot of, you know,
14 grammatical errors in the -- I mean, the sentence in
15 the exploratory makes no sense at all and --

16 MR. KIRBY: Looks like the word "if" is
17 stuck in there incorrectly.

18 THE DEPONENT: Yeah. I mean, I think
19 question 3 was my judgment as to what's the best way
20 to describe what people were going to be shown.

21 BY MR. RETTEW:

22 Q. Looking at Exhibit 84 --

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1 A. Which is Exhibit -- oh, okay.

2 Q. -- that's the graph there, could you walk
3 me through what these numbers mean? You've got same
4 company: 13; different company: 12.

5 A. That is the tabulation of the responses to
6 the five options shown in question C.

7 Q. What is, "The name of LG is Life is good,"
8 what is that?

9 A. The -- in some cases, people were asked
10 follow-up questions. As you can see, the debrief
11 section for all respondents that's on page AMS 157.
12 And some of the things we asked people were, you
13 know, "What's the name of this company?" I mean,
14 you know, I -- this shows what do people know about
15 LG or Life is good., sort of the, what's the --
16 what's their understanding.

17 Q. Okay. And then where it says, "LG makes
18 electronics: 13, versus LIG makes electronics,"
19 what exactly is that?

20 A. I don't know exactly what it is.

21 Q. Do you know generally what it is?

22 A. I think, in general, it's the responses to

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1 the debrief kind of questions in terms of what they
2 do know or do not know about the images companies
3 products that they saw.

4 Q. And what, if anything, does that tell you?

5 A. That the awareness of LG is significantly
6 greater than the awareness of Life is good.

7 Q. And what about the next cell, which says
8 "Knows LG" or "Knows LIG"?

9 A. That's the, you know, awareness question.

10 Q. And does that tell you the same thing?

11 A. That's what it tells me, yes.

12 Q. Tells you that LG is better known than LIG?

13 A. Yes.

14 Q. And what about this next row? It says,
15 "For the 13 who know LG," were you testing the
16 confusion or lack of confusion for those people who
17 specifically knew LG?

18 A. No.

19 Q. What was that -- could you describe to me
20 what that row signifies?

21 A. That's the tally of the results in the
22 first row for the people who later said they knew

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1 LG.

2 Q. And what, if anything, does that tell you?

3 A. That the people who know LG are also
4 confused, who are familiar with LG are also confused
5 about whether it's the same company or different
6 companies.

7 Q. One person said same company and nine said
8 different companies?

9 A. It just said different company. I'm unsure
10 of the connection.

11 Q. So this tells you that people that knew
12 about LG were confused?

13 A. Tells me that when asked this question,
14 here's what their responses were. As I said, you
15 know, part of the responses we got and the
16 observations made was that giving people the five
17 options was confusing. And so, you know, we fell
18 back to the more standard format.

19 Q. For this last row, that's less than 10
20 percent, isn't it, of people who were confused?

21 A. I'm not sure I would calculate percentages
22 on the basis of 13; so, no, I wouldn't say that.

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1 Q. But if the universe is 13, it's less than
2 10 percent of 13?

3 MR. KIRBY: Object to the form. What's
4 the "it"?

5 THE DEPONENT: You can do the
6 arithmetic, but I wouldn't draw that conclusion.

7 BY MR. RETTEW:

8 Q. What was the universe for the people in
9 this exploratory?

10 A. I think the -- they just wanted to
11 interview people who would be adults, you know,
12 adults in the market.

13 Q. So --

14 A. Adults available in the shopping mall to be
15 interviewed.

16 Q. So any adult who was willing to talk was
17 interviewed in the exploratory?

18 A. Yes.

19 Q. There were no screening criteria where
20 people were excluded or not asked?

21 A. I don't know for sure.

22 Q. And who would know, Ms. Schussheim?

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